IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1702 OF 2006

Rajesh K. Nimbalkar. ..Applicant.
Vs.
The State of Maharashtra. ..Respondent.

Mr.A.P.Mundergi,Sr. Advocate with Mr. Niranjan Mundergi for the Applicant.

Ms. S.V. Gajare, APP. for the State.

Mr. M.R. Kocharekar Adv. i/by S.V.Kotwal for the Original Complainant.

CORAM : R.S. MOHITE,J.
DATED : 28/6/2006.

P.C.

1. This is an application for grant of bail. The applicant is shown as an accused in C.R.No.186/2005 registered by Karnala Police Station, Solapur for alleged offences under Section-302 and 354 of the I.P.C.

2. The deceased is one Sheetal. The case is based upon circumstantial evidence. The dead body of Sheetal was found on 9.12.2005 in the field of one Sampat. The field of Sampat is adjoining to the field of the present applicant. Initially in the spot panchanama of the scene of offence nothing was found. But, subsequently on 18.12.2005, the statement of the complainant was recorded indicating suspicion against the present

applicant whom he had seen in the vicinity. The second spot panchanama indicated empty packet of condom 100 ft. away from the spot of the incident. The statement of one of the panch witness was subsequently recorded to the effect that he had sold condom to the applicant having the same batch no. as the condoms in his shop. The applicant came to be arrested on 20.12.2005. On 20.12.2005, the applicant is said to have given a memorandum statement indicating that he had concealed blood stained clothes and in pursuance of the memorandum blood stained clothes of the accused have been recovered. The C.A. report indicates that there are number of blood stains on the shirt of the applicant of dimensions 1 to 10 C.M. spread at places. The pant is also stained with blood at places. Both these clothes are found to contain blood of A Group and the same group was found on the clothes of the deceased and on the spot where the dead body was lying. Thus, prima facie this is a strong incriminating circumstance. It was sought to be argued that the panch who was party to the second spot panchanama and whose statement has been subsequently recorded as a vendor of condom packet is once again used for the discovery panchanama. I find that there is a second panch against whom no adverse comments can be made at this stage. I am not in a position to give any finding that there is no material against the applicant to involve him for an offence

under Section 302 of the I.P.C. Hence, application is rejected.

3. Needless to say that the observations made in this order will not be used by the trial court at the stage of trial.

4. Application is disposed of.

(R. S. MOHITE, J.)